

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

United States of America,	)	
	)	DEFENDANT ANTON JOSEPH
Plaintiff,	)	LAZZARO'S MOTION FOR LEAVE TO
	)	FILE A REPLY TO THE
vs.	)	GOVERNMENT'S RESPONSIVE
	)	BRIEFING ON HIS MOTIONS FOR
Anton Joseph Lazzaro,	)	SANCTIONS AND DISMISSAL
	)	
Defendant.	)	Crim. No. 21-173 (PJS/DTS)

Defendant Anton Joseph Lazzaro, through his counsel, Daniel L. Gerdt, Esq., respectfully seeks leave to file a reply to the Government's memoranda filed in response to his motions to dismiss for selective and vindictive prosecution and for sanctions for breach of privileged communications. At the hearing on 4 August 2022, the Court set deadlines for the filing of the Parties' briefing on the motions, but did not set a date for a reply, nor foreclosed the filing of a reply.

Defendant now seeks leave to file a reply. He requests that it be due in one week (12 September 2022) and that it be limited to no more than ten pages. Undersigned counsel believes it is warranted for at least, but not limited to, the following reasons:

To respond to the Government's improper attempt to augment the sanctions motion evidentiary record with a flawed post-hearing "investigation." If the Government seeks to re-open the evidentiary hearing, Defendant would be happy to introduce a recording of what he hears on his own calls.

To respond to the Government's erroneous assertion that vindictive prosecution claims may only be asserted in response to procedural retaliation, and to discuss the authorities that are directly to the contrary, including *United States v. Adams*, 870 F.2d 1140 (6th Cir. 1989), and *United States v. Stacey*, 571 F.2d 440 (8th Cir. 1978).

To respond to the Government's absolutely false assertion that his property had been returned to him before he was even indicted.

To respond to the Government's suggestion that the decision to prosecute could not have been politically retaliatory because the investigation straddled the administration of two political parties, when in fact the former U.S. Attorney for this district was completely unaware of the investigation when she left the position.

And to respond to the risible argument that the prosecution of the only co-conspirator in the same charged conspiracy as Defendant proves that the case was not the product of selective prosecution.

Dated: 5 September 2022

Respectfully submitted,

DANIEL L. GERDTS, LAWYER

s/ Daniel L. Gerdtz

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